

JS 44 (Rev. 09/11)

**CIVIL COVER SHEET**

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Medical Products Laboratories, Inc.  
9990 Global Road  
Philadelphia, PA 19115

(b) County of Residence of First Listed Plaintiff Philadelphia  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
David L. Braverman

Braverman Kaskey, P.C.  
1650 Market St., 56th Floor Philadelphia, PA 19103 (215) 575-3800

**DEFENDANTS**

Premier Dental Products Company  
1710 Romano Drive  
Plymouth Meeting, PA 19462

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. 1120

Brief description of cause:

Complaint for injunctive and declaratory relief for false or fraudulent registration and breach of contract

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/22/2012

SIGNATURE OF ATTORNEY OF RECORD

/s/David L. Braverman

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Medical Products Laboratories, Inc.	:	
Plaintiff,	:	
	:	
V.	:	
Premier Dental Products Company,	:	
Defendant.	:	

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>October 22, 2012</u>	<u>David L. Braverman</u>	<u>Plaintiffs</u>
<b>Date</b>	<b>Attorney-at-law</b>	<b>Attorney for</b>
<u>(215) 575-3800</u>	<u>(215) 575-3801</u>	<u>dbraver@braverlaw.com</u>
<b>Telephone</b>	<b>FAX Number</b>	<b>E-Mail Address</b>

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Medical Products Laboratories, Inc., 9990 Global Road, Philadelphia, PA 19115

Address of Defendant: Premier Dental Products Company, 1710 Romano Drive, Plymouth Meeting, PA 19462

Place of Accident, Incident or Transaction: Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☐ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☒ All other Federal Question Cases

(Please specify) Trademark

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability — Asbestos

9. ☒ All other Diversity Cases

(Please specify)

### ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, David L. Braverman, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: October 22, 2012

/s/ David L. Braverman

Attorney-at-Law

PA Bar #35145

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: October 22, 2012

/s/ David L. Braverman

Attorney-at-Law

PA Bar #35145

Attorney I.D.#

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Medical Products Laboratories, Inc., 9990 Global Road, Philadelphia, PA 19115

Address of Defendant: Premier Dental Products Company, 1710 Romano Drive, Plymouth Meeting, PA 19462

Place of Accident, Incident or Transaction: Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases  
(Please specify) Trademark

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☒ All other Diversity Cases  
(Please specify)

### ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, David L. Braverman, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: October 22, 2012

/s/ David L. Braverman

Attorney-at-Law

PA Bar #35145

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: October 22, 2012

/s/ David L. Braverman

Attorney-at-Law

PA Bar #35145

Attorney I.D.#

APPENDIX G

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

Medical Products Laboratories, Inc.

Plaintiff, :

:

V. :

Premier Dental Products Company :

Defendant. :

Civil Action

No: \_\_\_\_\_

DISCLOSURE STATEMENT FORM

Please check one box:

- ☒ The nongovernmental corporate party, Medical Products Laboratories, Inc., in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.
- ☐ The nongovernmental corporate party, \_\_\_\_\_, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

October 22, 2012  
Date

/s/ David L. Braverman  
Signature

Counsel for: Plaintiff, Medical Products Laboratories, Inc.

**Federal Rule of Civil Procedure 7.1 Disclosure Statement**

(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:

- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
- (2) states that there is no such corporation.

(b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:

- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and
- (2) promptly file a supplemental statement if any required information changes.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

Medical Products Laboratories, Inc.

*Plaintiff*

v.

Premier Dental Products Company

*Defendant*

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Premier Dental Products Company  
1710 Romano Drive  
Plymouth Meeting, PA 19462

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

David L. Braverman  
Max J. Ernst  
Braverman Kaskey, P.C.  
1650 Market Street, 56th Floor  
Philadelphia, PA 19103

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Michael E. Kunz  
Clerk of Court

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

---

MEDICAL PRODUCTS LABORATORIES, INC.  
9990 Global Road  
Philadelphia, PA 19115

Plaintiff,

v.

PREMIER DENTAL PRODUCTS COMPANY  
1710 Romano Drive  
Plymouth Meeting, PA 19462

Defendant.

---

CIVIL ACTION

NO. \_\_\_\_\_

**COMPLAINT**

1. This action for injunctive and declaratory relief is brought by Medical Products Laboratories, Inc. ("MPL") against Premier Dental Products Company ("Premier") under the Lanham Act (15 U.S.C. § 1051, *et seq.*) for false or fraudulent registration and for breach of contract.

**JURISDICTION**

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331 in that this action arises under the laws of the United States.

3. Jurisdiction is also proper in this Court pursuant to 28 U.S.C. § 1338 in that this action arises under an Act of Congress related to trademarks.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1367(a) in that any and all claims asserted by MPL over which this Court may lack original jurisdiction are so related to MPL's claims over which this Court has original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.



**VENUE**

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a) in that a substantial part of the events or omissions giving rise to MPL's claims occurred in this District and Premier resides in this district.

**PARTIES**

6. MPL is a Pennsylvania Corporation with a principal place of business at 9990 Global Road, Philadelphia, PA 19115.

7. Premier is a Pennsylvania Corporation with a principal place of business at 1710 Romano Drive, Plymouth Meeting, PA 19462.

**FACTUAL BACKGROUND**

A. The Trademark Agreement

8. MPL is a contract manufacturing company with expertise in research & development, manufacturing, packaging and testing of quality medical products.

9. Premier is a distributor of various medical products including dental products.

10. On September 16, 1975 MPL and Premier entered into an agreement regarding the use of trademarks for products developed by MPL or by MPL and Premier and marketed by Premier (the "Trademark Agreement"). A true and correct copy of the Trademark Agreement is attached hereto as Exhibit A.

11. The Trademark Agreement provided that "All current and future trademarks put into interstate commerce by Premier Dental Products Company covering merchandise made for their distribution by Medical Products Laboratories are jointly owned by both Medical Products Laboratories and Premier Dental Products Company." Trademark Agreement at ¶ 1.

12. The Trademark Agreement remains in full force and effect with only minor and immaterial modifications.

B. The Enamel Pro Trademarks

13. In or about 2003, MPL began developing and manufacturing a topical prophylaxis paste called “Enamel Pro”.

14. Enamel Pro is a 1.23% Fluoride prophylaxis paste with amorphous calcium phosphate (ACP).

15. Pursuant to its usual custom, MPL distributed Enamel Pro through Premier.

16. On or about July 6, 2004, Premier filed an application for a trademark on the use of the mark “Enamel Pro”.

17. This application was approved and Trademark Reg. No. 3,118,123 was entered on the Principal Register on July 18, 2006 (the “2006 Trademark”). A true and correct copy of the Certificate of Entry of the Mark on the Principal Register is attached hereto as Exhibit B.

18. Premier is the sole owner of the 2006 Trademark listed on the Register.

19. MPL is not listed as an owner of the 2006 Trademark on any official document.

20. For the 2006 Trademark, Premier filed an Joint Affidavit of Use and Incontestability on July 13, 2012 as required by 15 U.S.C. § 1058 asserting that the mark was still in commerce and listing Premier as the sole owner of the mark (the “2012 Affidavit”). A true and correct copy of the 2012 Affidavit is attached hereto as Exhibit C.

21. On or about October 12, 2006, Premier filed an application for a trademark on the use of the mark “Enamel Pro”.

22. This application was approved and Trademark Reg. No. 3,382,472 entered on the Principal Register on February 12, 2008 (the “2008 Trademark”). A true and correct copy of the Certificate of Entry of the Mark on the Principal Register is attached hereto as Exhibit D.

23. Premier is the sole owner of the 2008 Trademark listed on the Register.

24. MPL is not listed as the owner of the 2006 Trademark on any official document.

**COUNT I**

**False and Fraudulent Registration of the 2006 Trademark (15 U.S.C. § 1120)**

25. MPL incorporates Paragraphs 1 through 24, as if fully set forth herein at length.

26. Premier filed an application for the 2006 Trademark that did not list MPL as owner of the Trademark.

27. Premier knew that MPL was a co-owner of the 2006 Trademark at the time the application for the Trademark was made.

28. Premier's failure to list MPL as a co-owner of the 2006 Trademark was a false statement made to the United States Patent and Trademark Office.

29. Moreover, Premier filed the 2012 Affidavit and again failed to identify MPL as co-owner of the 2006 Trademark.

30. At the time Premier filed the 2012 Affidavit, Premier knew that MPL was a co-owner and that the application contained false and/or fraudulent representations.

31. As a result of Premier's actions, MPL has suffered injury including, but not limited to, loss of rights in the 2006 Trademark.

WHEREFORE, MPL prays for relief as more fully set forth below.

**COUNT II**

**False and Fraudulent Registration of the 2006 Trademark (15 U.S.C. § 1120)**

32. MPL incorporates Paragraphs 1 through 31, as if fully set forth herein at length.

33. Premier filed an application for the 2008 Trademark that did not list MPL as owner of the Trademark.

34. Premier knew that MPL was a co-owner of the 2008 Trademark at the time the application for the Trademark was made.

35. Premier's failure to list MPL as a co-owner of the 2008 Trademark was a false statement made to the United States Patent and Trademark Office.

36. As a result of Premier's actions, MPL has suffered injury including, but not limited to, loss of rights in the 2008 Trademark.

WHEREFORE, MPL prays for relief as more fully set forth below.

**COUNT III**  
**Breach of Contract**

37. MPL incorporates Paragraphs 1 through 36, as if fully set forth herein at length.

38. MPL and Premier are parties to the Trademark Agreement, which is a valid and binding contract between them.

39. The Trademark Agreement provides that all trademarks for products produced by MPL and distributed by Premier shall be jointly owned by both entities.

40. Premier filed applications for the 2006 Trademark and the 2008 Trademark that fail to list MPL as a joint owner in those trademarks.

41. The 2006 Trademark and the 2008 Trademark fail to identify MPL as a joint owner.

42. As a result of Premier's failure to list MPL as a joint owner in the two trademarks, MPL's rights in the trademarks are not protected.

43. Accordingly, Premier has breached the Trademark Agreement by failing to ensure that MPL is protected as a joint owner in the 2006 Trademark and the 2008 Trademark.

**PRAYER FOR RELIEF**

WHEREFORE, MPL respectfully requests that the Court enter judgment in favor of MPL and against Premier:

1. Declaring MPL joint-owner of the 2006 Trademark and 2008 Trademark; and
2. Entering an Order directing Premier to take all necessary steps to enter MPL on the Trademark Registry as a joint-owner of the 2006 Trademark and the 2008 Trademark.
3. An award of all costs and attorneys' fees pursuant to 15 U.S.C. § 1117.
4. Entering any such further relief as the Court deems just and proper.

Respectfully Submitted,

BRAVERMAN, KASKEY, P.C.

By /s/David L. Braverman  
David L. Braverman, Esquire  
Max J. Ernst, Esquire  
1650 Market Street-56<sup>th</sup> Floor  
Philadelphia, PA 19103  
*Attorneys for Plaintiff*  
*Medical Products Laboratories, Inc.*

DATE: October 22, 2012

# **EXHIBIT A**

September 16, 1975

AGREEMENT BETWEEN MEDICAL PRODUCTS LABORATORIES(CORPORATION)  
AND PREMIER DENTAL PRODUCTS COMPANY(CORPORATION)

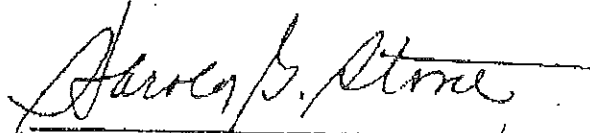
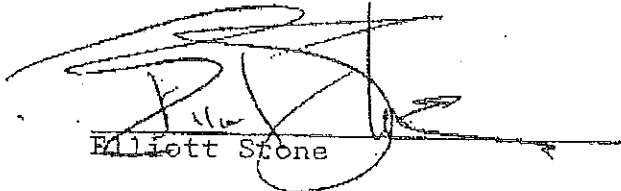
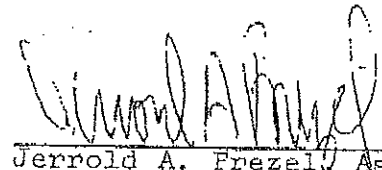
- 1) All current and future trademarks put into interstate commerce by Premier Dental Products Company covering merchandise made for their distribution by Medical Products Laboratories are jointly owned by both Medical Products Laboratories and Premier Dental Products Company.
- 2) If Premier Dental Products Company sells their business the trademarks shall be treated as follows:
  - (A) If the purchasing company and Medical Products Laboratories make a new distribution agreement, Premier Dental Products Company will assign their one half ownership of the trademarks to Medical Products Laboratories at no cost.

- to be continued -

(B) If no agreement is made with the purchasing company by Medical Products Laboratories to distribute the trademarked products, prior to the sale of Premier Dental Products Company to the purchasing company, Medical Products Laboratories can offer to purchase Premier's half ownership of the trademarks at a Fair Market Price, <sup>from Charlestein and Frezel families</sup> as a separate arrangement from Premier Dental Products Company sale to the purchasing company.

MEDICAL PRODUCTS LABORATORIES

PREMIER DENTAL PRODUCTS COMPANY

  
Harold G. Stone, Dr., President  
Morton L. Charlestein, President  
Elliott Stone  
Jerrold A. Frezel, Asst. Secretary



# **EXHIBIT B**

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 3,118,123

United States Patent and Trademark Office

Registered July 18, 2006

TRADEMARK  
PRINCIPAL REGISTER

**ENAMEL PRO**

PREMIER DENTAL PRODUCTS COMPANY  
(PENNSYLVANIA CORPORATION)  
1710 ROMANO DRIVE  
PLYMOUTH MEETING, PA 19462

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

FOR: DENTAL PREPARATIONS, NAMELY PRO-  
PHYLAXIS PASTE, DENTAL RINSE, TOOTH  
WHITENING AGENT FOR PROFESSIONAL USE,  
DENTAL SEALANT USED TO COAT TEETH, AND  
FLUORIDATED FOAM FOR DENTAL USE, IN  
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE ENAMEL, APART FROM THE  
MARK AS SHOWN.

SN 78-446,140, FILED 7-6-2004.

FIRST USE 3-23-2006; IN COMMERCE 3-23-2006.

TARAH HARDY, EXAMINING ATTORNEY

# **EXHIBIT C**

PTO Form 1583 (Rev 5/2006)  
OMB No. 0651-0055 (Exp 09/30/2014)

## Combined Declaration of Use and Incontestability under Sections 8 & 15

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	3118123
REGISTRATION DATE	07/18/2006
SERIAL NUMBER	78446140
<b>MARK SECTION</b>	
MARK	ENAMEL PRO
<b>ATTORNEY SECTION (current)</b>	
NAME	Timothy D. Pecsénye
FIRM NAME	BLANK AND ROME LLP
STREET	1 LOGAN SQ FL 9
CITY	PHILADELPHIA
STATE	Pennsylvania
POSTAL CODE	19103-6998
COUNTRY	United States
PHONE	215.569.5619
FAX	215.832.5619
EMAIL	pecsenye@blankrome.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
<b>ATTORNEY SECTION (proposed)</b>	
NAME	Edward M. Weisz
FIRM NAME	Cozen O'Connor
STREET	277 Park Avenue
CITY	New York
STATE	New York

POSTAL CODE	10172
COUNTRY	United States
PHONE	212-297-2660
FAX	212-986-0604
EMAIL	nyodocket@cozen.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
DOCKET/REFERENCE NUMBER	6012-50/324751
<b>CORRESPONDENCE SECTION (current)</b>	
NAME	TIMOTHY D. PECSENYE
FIRM NAME	BLANK AND ROME LLP
STREET	1 LOGAN SQ FL 9
CITY	PHILADELPHIA
STATE	Pennsylvania
POSTAL CODE	19103-6998
COUNTRY	United States
PHONE	215.569.5619
FAX	215.832.5619
EMAIL	pecsenye@blankrome.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
<b>CORRESPONDENCE SECTION (proposed)</b>	
NAME	Edward M. Weisz
FIRM NAME	Cozen O'Connor
STREET	277 Park Avenue
CITY	New York
STATE	New York
POSTAL CODE	10172
COUNTRY	United States
PHONE	212-297-2660
FAX	212-986-0604

EMAIL	nyodocket@cozen.com;eweisz@cozen.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
DOCKET/REFERENCE NUMBER	6012-50/324751
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	005
GOODS OR SERVICES	DENTAL PREPARATIONS, NAMELY PROPHYLAXIS PASTE, DENTAL RINSE, TOOTH WHITENING AGENT FOR PROFESSIONAL USE, DENTAL SEALANT USED TO COAT TEETH, AND FLUORIDATED FOAM FOR DENTAL USE
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT 16\784\461\78446140\xml1\ 8150002.JPG
SPECIMEN DESCRIPTION	Electronic image of product package showing goods as used in connection with the mark
<b>OWNER SECTION (current)</b>	
NAME	Premier Dental Products Company
STREET	1710 Romano Drive
CITY	Plymouth Meeting
STATE	Pennsylvania
ZIP/POSTAL CODE	19462
COUNTRY	United States
<b>LEGAL ENTITY SECTION (current)</b>	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Pennsylvania
<b>PAYMENT SECTION</b>	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	300
TOTAL FEE PAID	300
<b>SIGNATURE SECTION</b>	
SIGNATURE	/Edward M. Weisz/
SIGNATORY'S NAME	Edward M. Weisz

<b>SIGNATORY'S POSITION</b>	Attorney for Registrant
<b>DATE SIGNED</b>	07/13/2012
<b>SIGNATORY'S PHONE NUMBER</b>	212-297-2660
<b>PAYMENT METHOD</b>	DA
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Fri Jul 13 12:20:00 EDT 2012
<b>TEAS STAMP</b>	USPTO/S08N15-38.98.229.17 1-20120713122000795533-31 18123-490cc4288fe82ced2c4 714b67155c8d8b5-DA-9961-2 0120713112507268505

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PTO Form 1583 (Rev 5/2008)  
OMB No. 0651-0055 (Exp 09/30/2014)

**Combined Declaration of Use and Incontestability under Sections 8 & 15  
To the Commissioner for Trademarks:**

**REGISTRATION NUMBER:** 3118123  
**REGISTRATION DATE:** 07/18/2006

**MARK:** ENAMEL PRO

The owner, Premier Dental Products Company, a corporation of Pennsylvania, having an address of  
1710 Romano Drive  
Plymouth Meeting, Pennsylvania 19462  
United States

is filing a Combined Declaration of Use and Incontestability under Sections 8 & 15.

For International Class 005, the mark is in use in commerce on or in connection with **all** of the goods or services listed in the existing registration for this specific class: DENTAL PREPARATIONS, NAMELY PROPHYLAXIS PASTE, DENTAL RINSE, TOOTH WHITENING AGENT FOR PROFESSIONAL USE, DENTAL SEALANT USED TO COAT TEETH, AND FLUORIDATED FOAM FOR DENTAL USE; **and** the mark has been continuously used in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce on or in connection with **all** goods or services listed in the existing registration for this class. Also, no final decision adverse to the owner's claim of ownership of such mark for those goods or services exists, or to the owner's right to register the same or to keep the same on the register; and, no proceeding involving said rights pending and not disposed of in either the U.S. Patent and Trademark Office or the courts exists. The owner is submitting one specimen for this class showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) Electronic image of product package showing goods as used in connection with the mark.

Specimen File1

The registrant's current Attorney Information: Timothy D. Pecsénye of BLANK AND ROME LLP  
1 LOGAN SQ FL 9  
PHILADELPHIA, Pennsylvania (PA) 19103-6998  
United States

The registrant's proposed Attorney Information: Edward M. Weisz of Cozen O'Connor  
277 Park Avenue  
New York, New York (NY) 10172  
United States

The docket/reference number is 6012-50/324751.

The phone number is 212-297-2660.

The fax number is 212-986-0604.



The email address is nyodocket@cozen.com.

The registrant's current Correspondence Information: TIMOTHY D. PECSENYE of BLANK AND ROME LLP

1 LOGAN SQ FL 9

PHILADELPHIA, Pennsylvania (PA) 19103-6998

United States

The registrant's proposed Correspondence Information: Edward M. Weisz of Cozen O'Connor

277 Park Avenue

New York, New York (NY) 10172

United States

The docket/reference number is 6012-50/324751.

The phone number is 212-297-2660.

The fax number is 212-986-0604.

The email address is nyodocket@cozen.com;eweisz@cozen.com.

A fee payment in the amount of \$300 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

#### **Declaration**

*The mark is in use in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. The mark has been in continuous use in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce. There has been no final decision adverse to the owner's claim of ownership of such mark, or to the owner's right to register the same or to keep the same on the register; and there is no proceeding involving said rights pending and not disposed of either in the U.S. Patent and Trademark Office or in the courts.*

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /Edward M. Weisz/ Date: 07/13/2012

Signatory's Name: Edward M. Weisz

Signatory's Position: Attorney for Registrant

Signatory's Phone Number: 212-297-2660

Mailing Address (current):

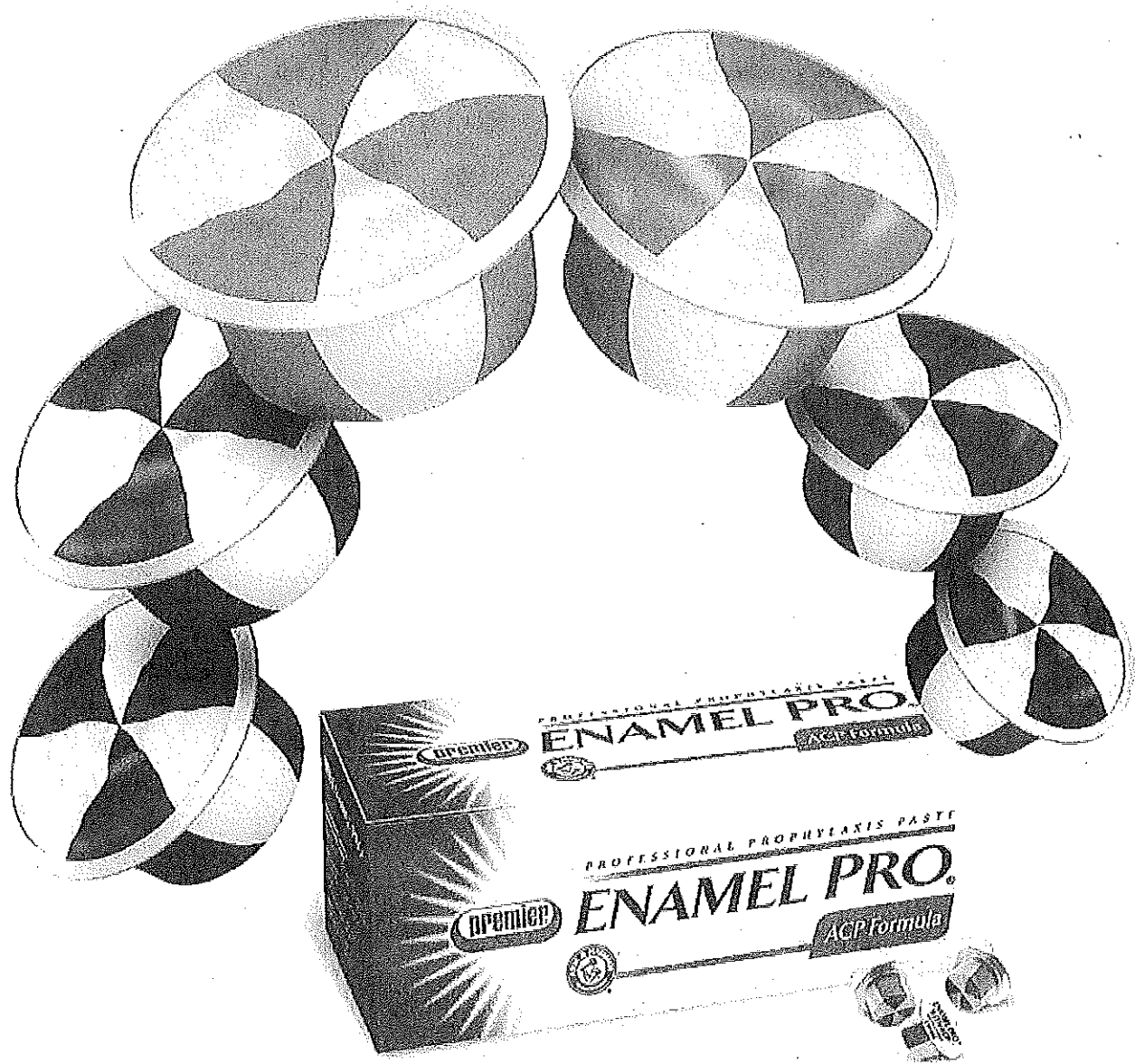
BLANK AND ROME LLP

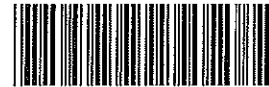
1 LOGAN SQ FL 9  
PHILADELPHIA, Pennsylvania 19103-6998

Mailing Address (**proposed**):

Cozen O'Connor  
277 Park Avenue  
New York, New York 10172

Serial Number: 78446140  
Internet Transmission Date: Fri Jul 13 12:20:00 EDT 2012  
TEAS Stamp: USPTO/S08N15-38.98.229.171-2012071312200  
0795533-3118123-490cc4288fe82ced2c4714b6  
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**ROUTING SHEET TO POST REGISTRATION (PRU)****Registration Number:** 3118123**Serial Number:** 78446140**RAM Sale Number:** 9961**RAM Accounting Date:** 20120713**Total Fees:** \$300

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Number of Classes Paid</u>	<u>Total Fee</u>
§8 affidavit	7205	20120713	\$100	1	1	\$100
§15 affidavit	7208	20120713	\$200	1	1	\$200

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICS (AM-FLG-IN-TICS): True

**Transaction Date:** 20120713

# **EXHIBIT D**

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 3,382,472

**United States Patent and Trademark Office**

Registered Feb. 12, 2008

**TRADEMARK  
PRINCIPAL REGISTER**

**ENAMEL PRO**

PREMIER DENTAL PRODUCTS COMPANY  
(PENNSYLVANIA CORPORATION)  
1710 ROMANO DRIVE  
PLYMOUTH MEETING, PA 19462

OWNER OF U.S. REG. NO. 3,118,123.

FOR: DENTAL VARNISH, IN CLASS 5 (U.S. CLS.  
6, 18, 44, 46, 51 AND 52).

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "ENAMEL", APART FROM THE  
MARK AS SHOWN.

FIRST USE 3-1-2007; IN COMMERCE 3-1-2007.

SN 77-019,889, FILED 10-12-2006.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

SALLY SHIH, EXAMINING ATTORNEY